IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 1867 of 1995

Between:

Karri Manikyam, S/o Apparao
D.No.11-3-10, Veera Raghavapuram, Samalkota
E.G. District.

..... petitioner

and

1 V.Prasad, Executive Director,

Deccan Sugar,

Division of Navabharat Ferro Alloys,
c/o Prawans Magnet Marron Dvsn Vishakapaatnam.
2 N.R Nanda Kumar, General Manager,
Deccan Sugars, Division of Nava Bharath Ferro Alloyes ,
Samalakota, East Godavari Dist
3 Commissioner of Labour Hyderabad
4 Industrial Tribunal cum Labour Court

Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly in the nature of writ of certiorari after calling for records leading up to impugned proceedings in I.D.no.65/92 dt.4.6.1994 of the respondent no.4 be set a side as the same is being illegal, unjust and against the principles of natural justice and consequentially direct the respondents to reinstate the petitioner into service with all consequential benefits

including payment of back wages, etc.

Counsel for the Petitioner:MR.M.S.RAJALINGAM

Counsel for respondent No.1 Mr.K.Srinivasa Murthy

Counsel for the Respondent No.2: MR.M.KRISHNA MOHAN RAO

Counsel for the Respondents No.3 and 4 : G.P. for labour.

The Court made the following :

ORDER:

In this writ petition, the award of the Industrial Tribunal-cum-Labour Court, Visakhapatnam-2 in I.D.No.65 of 1992, dated 04.06.1994 is assailed by the workman.

2. The petitioner is a workman, who raised an industrial dispute under Section 2A (2) of the Industrial Disputes Act, 1947, stating that the resignation was obtained by him under forced circumstances and that it amounts to termination. The petitioner, according to the averments in the petition, he was appointed as Wireman in the 1st respondent-Company at Samalkota in 1974, and by 1990 he had put in sixteen years of service. According to the management, on 05.09.1990 the petitioner tried to bribe the manager for giving promotion to him. At that point of time, when he was trapped he realized his mistake and the workman himself voluntarily tendered his resignation and the same was accepted. However, a dispute was raised by the workman alleging illegal termination. Before the Tribunal, three witnesses were examined for workman and Exs.W.1 to W.17 were marked and two witnesses were examined for management and Exs.M.1 to M.30 were marked.

3. The Tribunal on appreciation of the evidence on record, came to the conclusion that the resignation tendered by the workman was voluntary and no force was used by the management in this regard, and accordingly, held against the workman. Against the said order, the present writ petition has been filed.

4. Learned counsel for the petitioner submits that the findings of the Tribunal are erroneous and contrary to law. He submits that even the workman was threatened with criminal prosecution and that he had no other go except to submit the resignation, and thus it is not voluntary resignation, but under forced circumstances. He further submits that under Clause 21(5) of the Companies Certified Standing Orders giving bribe or taking bribe is a misconduct, for which enquiry is to be conducted. Admittedly, no enquiry was conducted. Therefore, the termination is

illegal on this ground also.

5. Heard the learned counsel for the respondents. I am afraid I cannot accept the contention raised by the learned counsel for the petitioner. The Tribunal, on appreciation of the evidence has recorded a categorical finding that the resignation tendered by the petitioner was voluntary and since the same has been accepted by the management, it would not amount to termination of services. The Tribunal also took into consideration that the petitioner did not raise the dispute immediately after his resignation, but only filed an application after one year of his resignation, and that he also received gratuity even without protest.

6. Under those circumstances, the Tribunal held that there was no pressure applied by the management to compel the workman to resign from the service. This being a pure question of fact, it is not be appropriate to this Court to interfere sitting under Article 226 of the Constitution of India. Thus, I do not find any error apparent on the face of the record. Accordingly, the writ petition is dismissed. No costs.

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G.BIKSHAPATHY, J

18th November, 2004

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To

1 Mr. V.Prasad, Executive Director,

Deccan Sugar,

Division of Navabharat Ferro Alloys,
C/o Prawans Magnet Marron Dvsn Vishakapaatnam.

2 Mr. N.R Nanda Kumar, General Manager,
Deccan Sugars, Divison of Nava Bharath Ferro Alloyes ,
Samalakota, East Godavari Dist
3 The Commissioner of Labour Hyderabad
4 The Industrial Tribunal cum Labour Court

Visakhapatnam.

5 2 CCs to the Government Pleader for Labour, High Court of

A.P., Hyderabad. (OUT)

6 2 CD copies.